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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/711,279	11/10/2000	Peter I. Clarke	0807590.0103	6853

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EXAMINER	
ALVAREZ, RAQUEL	
ART UNIT	PAPER NUMBER
3622	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/711,279	CLARKE ET AL.	
	Examiner	Art Unit	
	Raquel Alvarez	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12/11/2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *13-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *13-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to communication filed on 12/11/2006.

2. Claims 13-33 are presented for examination.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. Claims 13- 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Williams et al. (6,618,734 hereinafter Williams) in view of Official Notice.

With respect to claim 13, Williams teaches implementing an employment sourcing website on a publicly accessible network (i.e. Internet implemented third party behavioral assessment)(see Figure 1 and col. 3, lines 11-17); implementing on said publicly accessible network a first organization specific website associated with a first organization (i.e. the job candidate access the web to input and respond to the job opening (see Figure 1, step 100 and Figure 2, 101); receiving employment specific information on a plurality of positions from said first organization (Figure 1, 100);

transferring a first website visitor, visiting said first organization specific website over said publicly accessible network, from said first organization specific website to said employment sourcing website, said transfer being implemented in response to clicking of said employment hyperlink on said first organization specific website (i.e.

immediately transferring the candidate from the employer web interview to the third party in order to proceed with BFOQ interview) (Figures 1 and 4 ; col. 3, lines 11-17); in response to clicking of said employment hyperlink on said first organization specific website by said first visitor, presenting said employment sourcing website in a style which mimics said first organization specific website and receiving criteria respecting acceptable candidates for each of said plurality of employment positions from said first organization and a first series of questions associated with said criteria (i.e. the candidate is transferred to the third party seamlessly in order for the third party to present to the candidate the questions that resembles the substance of the client's information)(see figure 1, 300 and col. 7, lines 43-51); presenting, over said publicly accessible network, said information on said plurality of employment positions from said organizations to said visitor on said employment sourcing website and receiving over said publicly accessible network, a selection of one of said employment positions from said website visitor (see Figure 5); presenting, over said publicly accessible network, said first series of questions on said employment sourcing website to said first visitor, seeking information respecting said first visitor, said first series of questions being associated with said selected employment position (col. 7, lines 38-51); receiving, over said publicly accessible network, answers to said first series of questions from said first website visitor, said answers comprising information on said first website visitor (see figure 5, 201); scoring said answers from said first website visitor against said criteria for the selected employment position to determine whether information on said first visitor should be sent to said first organization (see Figure 5, steps 203, 204 and 205).

With respect to charging said first organization in response to a scoring determination on said visitor. Williams teaches the third party scoring and qualifying the candidate. Williams doesn't specifically teach paying the third party for their services. Official notice is taken that it is old and well known for headhunters, employment agency to be paid for providing their services. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included charging said first organization in response to a scoring determination that information on said visitor should be sent to said first organization because such a modification would allow the third party of Williams to benefit from administering and scoring the tests.

Claim 17-20, 22, 23, 28-33, differs from claim 1 in that it further recites presenting an employment hyperlink on a plurality of websites and crediting the referring website. Official notice is taken that it is old and well known to hyperlink users to other websites and crediting the referring site. For example, referring sites are paid for referring visitors to conduct transactions with employers or vendors. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included charging said first organization in response to a referring a visitor because such a modification would allow the referring entities to be motivated to refer customer to the system of Williams.

Claims 14-16 further recite presenting other visitors from other employment hyperlinks other associated websites. Official notice is taken that is old and well known

for the system of Williams to be used for other visitors, other employment and other associated entities because such a modification would allow the flexibility for the system to be used for a plurality of various users and employment agency and employers.

Claims 21, 24, 25-27 further recite receiving an indication that said website visitor is being considered for a position and blocking said website visitor from further use of the website and blocking information on said visitor from being transmitted by said website. Williams teaches third party scoring and making a determination on the eligibility of the candidates (Figure 1, 400). Williams is silent as to blocking the visitor after a determination and scoring has taken place. Official notice is taken that it is old and well known for blocking a participant from applying or retaking a test after a determination has been made in order to avoid the participant from applying more than once to the same test or position. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's position to have included recite receiving an indication that said website visitor is being considered for a position and blocking said website visitor from further use of the website and blocking information on said visitor from being transmitted by said website in order to obtain the above mentioned advantage.

Response to Arguments

5. The 112, 2nd paragraph rejection has been withdrawn.

6. The affidavit filed on 12/11/2007 doesn't meet the requirements because if several individuals comprise the applicant, the affidavit should be executed by each of

those individuals. See MPEP 715.04

7. Applicant argues that Williams doesn't disclose referral of a job candidate from another website where a job listing is posted receiving employment information on a plurality of positions at one or more organization, transferring a website visitor to a referring website via an employment hyperlink. The Examiner disagrees with Applicant because Williams clearly teaches on Figures 1 and 4 and col. 3, lines 11-17, "Once an initial interview through the system is completed, the system can immediately schedule a candidate for a follow-up interview, to be conducted by either the client/employer or the third-party interviewer at a set time and date. The system can also immediately transfer the candidate to a client/employer or third party interviewer. This feature reduces the labor and time typically expended in contacting applicants and increases the probability that an applicant will be present for a follow-up interview." In addition Figure 2 illustrates implementing the invention via the Internet.

8. With respect to charging the organization in response to a scoring determination regarding the website visitor. The Examiner wants to point out that Williams clearly teaches the third party or headhunter or employment agency scoring and qualifying the website visitor for the position (See Figure 5, steps 203, 204 and 205). What Williams is silent about is paying the third party or hunter or employment agency for the scoring and the qualifying. In the system of Williams it make sense to pay the third party or employment agency for the scoring and qualifying the job applicant and therefore the Examiner had taken official notice of such. Applicant is challenging the Examiner with respect to the Official Notice taken, while applicant may challenge the examiner's use of

Official Notice, applicant needs to provide a proper challenge that would at least cast reasonable doubt on the fact taken notice of. See MPEP 2144.03 where In re Boon is mentioned.

9. In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

10. Applicant is challenging the Examiner in the Official Notice taken that it is old and well known for referring sites to be paid for referring visitors to conduct transactions with employers or vendors and alleges that it wasn't well known prior to the date of the application or of applicant's invention. The Examiner is citing Bezos (6,029,141) as support for the Official Notice taken that paying commission to a referring site (i.e. associate web site) for referring visitors (i.e. customer computer) to conduct transactions with a vendor (i.e. merchant web site) (see Figure 2 and Abstract). The reference is prior to Applicant's invention.

11. Applicant doesn't understand the reasoning of the Official Notice taken with respect to claims 14-16, the Examiner wants to point out that claims 14-16 recite referring a second website visitor, using a second organization and fourth website for

connecting the visitor to the employment website. The Examiner wants to point out that using the same system for a plurality of visitors, organizations and employment websites is obvious and well known for the system of Williams to be used for more than one visitor, employment site or referring sites. Therefore the official notice is sustained.

12. With respect to claims 21, 24, 25-27, Applicant argues that the blocking of the information of Applicant's invention is for a different purpose than the combination of Williams and the Official Notice taken. The Examiner wants to point out that the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985).

Conclusion

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Point of contact

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric w. Stamber can be reached on (571)272-6724. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Raquel Alvarez
Primary Examiner
Art Unit 3622

R.A.
4/11/2007